

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNITED STATES OF AMERICA

v.

Criminal Nos.
3:19-CR-112-K

CENGIZ JAN COMU (01)
JOHN MERVYN PRICE (02)
HARLEY E. BARNES, III (03)
RICHARD LAURENCE KADISH (04)
RICHARD LAWRENCE GREEN (05)
SUZANNE AILEEN GAGNIER (07)
JOE EDWARD DUCHINSKY (08)
JOSEPH LUCIEN DUPLAIN (09)
RUSSELL FILIPPO (10)

UNITED STATES OF AMERICA

3:19-CR-437-K

v.

DONALD ANDREW ROTHMAN (01)

UNITED STATES OF AMERICA

3:19-CR-521-K

v.

BETH ELLEN DEGROOT (01)
HARLEY E. BARNES III (02)

**UNITED STATES' CONSOLIDATED REPLY TO OPPOSITION TO
MOTION FOR A PROTOCOL GOVERNING DISCLOSURE**

1. On October 29, 2020, the Government filed a motion for a protocol for governing disclosure of material subject to potential claims of privilege.

2. On November 19, 2020, Defendant Barnes filed a response in opposition objecting to the 14-day time period in Section 3 of the Proposed Protocol for defendants to produce a privilege log as too short.

3. On November 23, 2020, Defendant Filippo filed a response in opposition objecting to the 14-day time period in Section 3 of the Proposed Protocol for defendants to produce a privilege log as too short.

4. On December 3, 2020, Defendant Gagnier filed a response in opposition objecting to the 14-day time period in Section 3 of the Proposed Protocol for defendants to produce a privilege log as too short. In addition, Defendant Gagnier objected to the 7 day deadline in Section 4 of the Proposed Protocol for defendants to file a motion to challenge other defendant's claim of privilege over identified material or otherwise to seek disclosure of that material.

NOW COMES the United States of America, by and through its assigned filter team in the above cases (the "Filter Team"), which respectfully files this consolidated reply, and shows as follows:

5. On December 3, 2020, the Government proposed the following changes in the Proposed Protocol to each of the defendants in order to address the above objections:

a) Revision of Section 3 of the Proposed Protocol to change the time to review the potentially privileged material and assert privileges through a filter log from 14 business days to 45 calendar days; and

b) Addition of a section between section 6 and section 7 of the Proposed Protocol that reads, “The notification and filing deadlines set forth in this Protocol may be extended based on the written agreement of the parties, or by any party requesting the same from the Court upon good cause shown.”

6. By December 9, 2020, each of the defendants had provided their affirmative agreement to the above changes. A revised Proposed Protocol reflecting these changes is attached hereto.

7. The Government urges the Court to adopt the revised Proposed Protocol as reflecting the unanimous agreement of the parties of the format by which to proceed with disclosure of potentially privileged material in the above cases.

Dated: December 9, 2020

Respectfully submitted,

DANIEL S. KAHN
ACTING CHIEF
CRIMINAL DIVISION, FRAUD
SECTION
U.S. DEPARTMENT OF JUSTICE

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CERTIFICATE OF SERVICE

I certify that on December 9, 2020, I filed a true and correct copy of the foregoing Government's Reply via ECF, which will provide notice to counsel of record for all defendants in these actions.

/s/

Vincent Falvo
Senior Trial Attorney, U.S. Department of
Justice